

II. REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1 and 55-84 are pending in the application. Claims 1, 61, 65, and 69 are independent.

Applicants gratefully acknowledge that Claims 69-72 are allowed, and that Claims 65 and 66 are indicated as containing allowable subject matter. Note that Claim 65 has been rewritten in independent form to secure immediate allowance thereof.

The undersigned and Applicants' Canadian representative, Mr. Omar Nassif, would like to thank Examiners Matthews and McDermott for the cordial and productive interview of November 2, 2005. The Examiners' helpful comments and suggestions were instrumental in preparing this response.

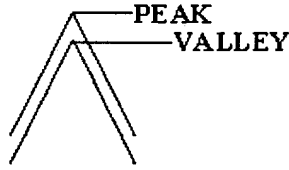
As discussed at the interview, Applicants have added new dependent Claims 73-84 to afford themselves a scope of protection commensurate with the disclosure. The new claims are fully supported in the specification and drawings, and are believed to be allowable.

Claim 1 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 49 of U.S. Patent No. 6,183,506, for the reasons discussed on pages 2-3 of the Office Action. Applicants respectfully traverse this rejection on the ground that pending Claim 1 is patentably distinct from Claim 49 of the '506 Patent. However, in order to rapidly advance this case to issue, attached herewith is a Terminal Disclaimer with respect to the '506 Patent.

Claims 1 and 55-68 were rejected under 35 USC § 112, second paragraph, for the reasons noted at page 3 of the Office Action. Applicants respectfully traverse this rejection on the ground that the person of ordinary skill in the art would not be confused as to the meaning or scope of the claims. Nevertheless, certain of these claims have been amended for clarity with respect to the specification and Drawings, and not in response to any statutory requirement.

The specification was objected to as purportedly failing to provide a proper antecedent basis for the terms “peak” and “valley. As discussed at the interview, Applicants respectfully submit that the terms “peak” and “valley” are so very well known in the stent field, that they would be clearly recognized by anyone of ordinary skill in the art as referring to the peaks and valleys clearly depicted in the Drawings of the subject application. For example, the Orth reference (USP 5,591,197) applied by the Examiner in the June 16, 2005 Office Action clearly discusses peaks and valleys at Col. 6, lines 30-32, and depicts them as elements 14 and 15 in Figs. 2D and 3. Note that numerous stent patents have been issued by the USPTO, which include the terms “peak” and “valley” in the claims but not in the specification, including Fischell (USP 6,547,817), and Penn (USP 6,858,037; a related case). Note, however, that the subject application (and the ‘037 Patent) include the term “peak” when describing the projecting peak in the flex member depicted in Fig. 12c.

The below diagram may be useful in depicting the peak and valley structure, as it is commonly recognized by those of ordinary skill in the art.



In view of the above, Applicants respectfully submit that the subject application, including the specification and Drawings, provide proper antecedent bases for the claimed terms.

Claims 1, 55-64, and 67-68 were rejected as being unpatentable over Orth and Wijay, for the reasons detailed at pages 4-6 of the Office Action. Applicants respectfully traverse all art rejections.

As discussed at the interview, independent Claim 1 recites a novel combination of structure and/or function whereby an expandable stent includes a proximal end and a distal end in communication with one another. A tubular wall is disposed between the proximal end and the distal end, and the tubular wall has a longitudinal axis and a porous surface defined by a plurality intersecting members. The intersecting members are arranged to define a first repeating pattern comprised of a polygon having: (i) a pair of side walls substantially parallel to the longitudinal axis, (ii) a single concave-shaped first end wall having a first apex, and (iii) a single convex-shaped second end wall having a second apex. The concave-shaped first end wall and the convex-shaped second end wall connect the side walls, and at least one of the first apex and the second apex is substantially flat. The stent is expandable from a first, contracted position to a second, expanded position upon the application of a radially outward force on the stent. Each the side wall (i) is connected to a corresponding end wall portion that

is substantially orthogonal to the longitudinal axis, and (ii) comprises at least a flex member connected to at least one straight segment disposed substantially parallel to the longitudinal axis. The flex member comprises a curved shape, curved in a plane of the pair of side walls.

As discussed at the interview, the projecting barb 22 (Fig. 4A) of Orth does not curve in the plane of the pair of side walls. Furthermore, no repeating polygon of Orth has a pair of side walls, a single concave-shaped first end wall and a single convex-shaped second end wall; combined with the claimed flex members in the side walls. Accordingly, the salient claimed features of the present invention are nowhere disclosed or suggested by the cited art.

As also discussed at the interview, the crossties 3 of Wijay are connected to the wires 6 at a point, and not at a side wall portion that is substantially orthogonal to the longitudinal axis of the stent. Again, the claimed combinations of the present invention are nowhere disclosed or suggested by the cited art. Moreover, there is no convincing suggestion or motivation, absent hindsight reconstruction, for combining the disclosures of Orth and Wijay to produce the claimed combinations.

As likewise discussed at the interview, independent Claim 61 recites a novel combination of structure and/or function whereby an unexpanded stent includes a tubular wall having a series of undulating circumferential portions, where each circumferential portion comprises alternating peaks and valleys. The tubular wall also has a plurality of longitudinal portions connecting the series of undulating circumferential portions, to form a porous, cylindrical surface. A longitudinal portion connects a peak in a first circumferential portion with a valley in a second circumferential portion adjacent

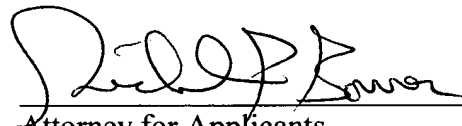
to the first circumferential portion. Each of the plurality of longitudinal portions has a flexure member interposed between a pair of straight strut portions which are disposed parallel to a longitudinal axis of the stent. The flexure member, in a non-radial direction of the stent, comprises a U-shape.

In contrast, in Orth, the projecting barb 22 does not comprise a U-shape in a non-radial direction of the stent. Thus, the claimed combination of Claim 61 is nowhere disclosed or suggested by the cited art.

In view of the above, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard P. Bauer", written over a horizontal line.

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